

THE HON'BLE SRI JUSTICE BILAL NAZKI

AND

THE HON'BLE SRI JUSTICE G.CHANDRAIAH

WRIT PETITION NO.3983 OF 2006

Date: 17-04-2006

Between:

M/s Suguna Motors Private Limited ... Petitioner

And

The Assistant Commissioner and other ... Respondents

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THE HON'BLE SRI JUSTICE BILAL NAZKI

AND

THE HON'BLE SRI JUSTICE G.CHANDRAIAH

WRIT PETITION NO.3983 OF 2006

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O R D E R (Per the Hon'ble Sri Bilal Nazki, J):

Heard learned counsel for the parties.

The grievance of the petitioner is that certain amounts were collected from him by the respondents during an inspection, by way of coercion, and no order of assessment/reassessment was passed. In a way, it is admitted in paragraph No.11 of the counter affidavit, which reads as under.

"In reply to para 4 of the affidavit, it is submitted that the taxes paid by the petitioner voluntarily for the assessment years 1999 onwards is towards suppression of sales turnover of

motor vehicles, sales of spares, warranties etc., relating to the unaccounted purchases made from M/s Maruthi Udyog Limited. The petitioner was never coerced for payment of the above tax by way of postdated cheques. On the other hand the petitioner issued the cheques voluntarily. The allegation that those cheques were collected forcibly is afterthought and misnomer. The petitioner himself given a statement in his own handwriting admitting the discrepancies in the maintenance of books of accounts and resulting in not reporting correct turnovers. Therefore, the allegation that the statement was given at the dictation of the first respondent is false. However, the concerned assessing authority has already issued show cause notices basing on the various discrepancies for revising the assessments of the petitioner for the above said assessment years”.

It is quite clear that when the cheques for these amounts were recovered from the assessee, there had been no order of assessment/reassessment. The counter shows that the assessing authorities gave a show cause notice after receiving the cheques and now learned Special Standing Counsel for Commercial Taxes informs this Court that in some of the cases even the final assessment orders have been passed. As far as the cheques which were given and which have not been encashed because the payment was stopped by the petitioner-assessee, the cheques may not be cashed till the assessments are finalized and in case of the petitioner being aggrieved of the assessment orders, he may take recourse to the remedies available to him in law.

With these observations, the writ petition is disposed of. No order as to costs.

(Bilal Nazki, J)

Dated 17th April, 2006

(G.Chandraiah, J)

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Note: Issue C.C by 19-04-2006

(b/o)

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